

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICE SYSTEMS, INC. and
NICE SYSTEMS LTD.,

Plaintiffs,

v.

WITNESS SYSTEMS, INC.,

Defendant.

Civil Action No. 06-311-JJF

**WITNESS SYSTEMS, INC'S MOTION TO COMPEL
NICE SYSTEMS, INC. AND NICE SYSTEMS LTD. TO PRODUCE
DOCUMENTS AND RULE 30(b)(6) TESTIMONY**

Defendant and Counterclaim Plaintiff Witness Systems, Inc. ("Witness Systems") moves the Court to enter an Order compelling Plaintiffs and Counterclaim Defendants NICE Systems, Inc. and NICE Systems Ltd. (collectively, "NICE") to promptly produce: (1) all e-mail responsive to Witness Systems' document requests, (2) all responsive documents identified during the depositions of Salvatore Morlando, Daniel Daly, John Henits, and Eyal Rudnik; and (3) one or more witnesses competent to give deposition testimony concerning each of Witness Systems' propounded Rule 30(b)(6) topics for which NICE has not yet produced a competent designee. Moreover, Witness Systems requests that the Court order NICE to pay the costs, attorneys' fees, and expenses relating to taking the deposition of Mr. Rudnik and associated with the instant motion.

Dated: June 15, 2007

FISH & RICHARDSON P.C.

By: /s/ Kyle Wagner Compton

William J. Marsden, Jr. (#2247)
Kyle Wagner Compton (#4693)
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ATTORNEYS FOR DEFENDANT
WITNESS SYSTEMS, INC.

LOCAL RULE 7.1.1 CERTIFICATION

Pursuant to D. Del. Local Rule 7.1.1, Defendant and Counterclaim Plaintiff Witness Systems, Inc. ("Witness Systems") certifies that it has sought the agreement of Plaintiffs and Counterclaim Defendants NICE Systems, Inc. and NICE Systems Ltd. (collectively, "NICE") to produce all documents responsive to Witness Systems' document requests, and to produce designee deponents to testify concerning each of Witness Systems' propounded Rule 30(b)(6) topics for which NICE has not yet produced a competent designee, but that NICE has declined to do so.

/s/ Kyle Wagner Compton
Kyle Wagner Compton (#4693)

Dated: June 15, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June, 2007, I electronically filed with the Clerk of Court the foregoing **WITNESS SYSTEMS, INC'S MOTION TO COMPEL NICE SYSTEMS, INC. AND NICE SYSTEMS LTD. TO PRODUCE DOCUMENTS AND RULE 30(b)(6) TESTIMONY** using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel. In addition, the filing will also be sent via hand delivery.

Josy W. Ingersoll
Melanie K. Sharp
Karen E. Keller
Young, Conaway, Stargatt & Taylor, LLP
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899

Attorneys for Plaintiffs
Nice Systems Ltd. and Nice Systems, Inc.

I also certify that on June 15, 2007, I have sent by electronic mail and U.S. First Class Mail, the document(s) to the following non-registered participants:

Scott G. Lindvall
Daniel DiNapoli
Joseph M. Drayton
Robert R. Laurenzi
Jason Frank
Steven Chin
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New York, NY 10022

Attorneys for Plaintiffs
Nice Systems Ltd. and Nice Systems, Inc.

/s/Kyle Wagner Compton

Kyle Wagner Compton

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NICE SYSTEMS, INC. and
NICE SYSTEMS LTD.,

Plaintiffs,

v.

WITNESS SYSTEMS, INC.,

Defendant.

Civil Action No. 06-311-JJF

**WITNESS SYSTEMS, INC'S NOTICE OF MOTION TO COMPEL NICE
SYSTEMS, INC. AND NICE SYSTEMS LTD. TO PRODUCE DOCUMENTS AND
RULE 30(b)(6) TESTIMONY**

PLEASE TAKE NOTICE THAT, in accordance with the procedures set forth in the Court's Standing Order regarding the procedure for filing non-case dispositive motions in patent cases, Defendant and Counterclaim Plaintiff Witness Systems, Inc. ("Witness Systems") moves the Court to compel Plaintiffs and Counterclaim Defendants NICE Systems, Inc. and NICE Systems Ltd. (collectively, "NICE") to promptly produce: (1) all e-mail responsive to Witness Systems' document requests, (2) all responsive documents identified during the depositions of Salvatore Morlando, Daniel Daly, John Henits, and Eyal Rudnik; and (3) one or more witnesses competent to give deposition testimony concerning each of Witness Systems' propounded Rule 30(b)(6) topics for which NICE has not yet produced a competent designee. Moreover, Witness Systems requests that the Court order NICE to pay the costs, attorneys' fees, and expenses relating to taking the deposition of Mr. Rudnik and associated with the instant motion. Witness Systems respectfully requests that the Court consider its Motion to Compel Nice

Systems, Inc. and Nice Systems Ltd. to Produce Documents and Rule 30(b)(6) Testimony
on July 13, 2007, or as soon thereafter as the Court may permit.

Dated: June 15, 2007

FISH & RICHARDSON P.C.

By: /s/ Kyle Wagner Compton
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ATTORNEYS FOR DEFENDANT
WITNESS SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June, 2007, I electronically filed with the Clerk of Court the foregoing **WITNESS SYSTEMS, INC'S NOTICE OF MOTION TO COMPEL NICE SYSTEMS, INC. AND NICE SYSTEMS LTD. TO PRODUCE DOCUMENTS AND RULE 30(b)(6) TESTIMONY** using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel. In addition, the filing will also be sent via hand delivery.

Josy W. Ingersoll
Melanie K. Sharp
Karen E. Keller
Young, Conaway, Stargatt & Taylor, LLP
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P.O. Box 391
Wilmington, DE 19899

*Attorneys for Plaintiffs
Nice Systems Ltd. and Nice Systems, Inc.*

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*Attorneys for Plaintiffs
Nice Systems Ltd. and Nice Systems, Inc.*

/s/Kyle Wagner Compton
Kyle Wagner Compton

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NICE SYSTEMS LTD.,

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Civil Action No. 06-311-JJF

**ORDER GRANTING WITNESS SYSTEMS, INC'S MOTION TO COMPEL
NICE SYSTEMS, INC. AND NICE SYSTEMS LTD. TO PRODUCE
DOCUMENTS AND RULE 30(b)(6) TESTIMONY**

Having considered Witness Systems Motion to Compel NICE Systems, Inc. and NICE Systems Ltd. to Produce Documents and 30(b)(6) Designees, IT IS HEREBY ORDERED that:

The motion is GRANTED, and NICE shall promptly produce:

- (1) all e-mail responsive to Witness Systems' document requests;
- (2) all responsive documents identified during the depositions of Salvatore Morlando, Daniel Daly, John Henits, and Eyal Rudnik; and
- (3) one or more witnesses competent to give deposition testimony concerning each of Witness Systems' propounded Rule 30(b)(6) topics for which NICE has not yet produced a competent designee—*i.e.*, Topics 1-7, 9-14, 18-19, and 21-34.

In addition, NICE is required to pay the costs, attorneys' fees, and expenses relating to taking the deposition of Mr. Rudnik and associated with the instant motion. Witness Systems is instructed to submit information regarding the amount of said fees, costs, and expenses within twenty (20) days of the date of this Order.

SO ORDERED this _____ day of July, 2007.

Joseph J. Farnan, Jr.
United States District Judge